

HOUSE BILL 1547  
By Winningham

AN ACT to amend Tennessee Code Annotated, Title 3, Chapter 17, Part 1; Title 38; Title 39 and Title 48, relative to annual events operated for the benefit of § 501(c)(3) organizations located in Tennessee pursuant to Article XI, Section 5 of the Constitution of Tennessee.

WHEREAS, Article XI, Section 5 of the Constitution of Tennessee provides:

The legislature shall have no power to authorize lotteries for any purpose, and shall pass laws to prohibit the sale of lottery tickets in this state, except that the legislature may authorize a state lottery if the net proceeds of the lottery's revenues are allocated to provide financial assistance to citizens of this state to enable such citizens to attend post-secondary educational institutions located within this state. The excess after such allocations from such net proceeds from the lottery would be appropriated to:

- (1) Capital outlay projects for K-12 educational facilities; and
- (2) Early learning programs and after school programs.

Such appropriation of funds to support improvements and enhancements for educational programs and purposes and such net proceeds shall be used to supplement, not supplant, non-lottery educational resources for educational programs and purposes.

All other forms of lottery not authorized herein are expressly prohibited unless authorized by a two-thirds vote of all members elected to each house of the general assembly for an annual event operated for the benefit of a 501(c)(3) organization located in this state, as defined by the 2000 United States Tax Code or as may be amended from time to time.

A state lottery means a lottery of the type such as in operation in Georgia, Kentucky and Virginia in 2000, and the amendment to Article XI, Section 5 of the Constitution of the State of Tennessee provided for herein does not authorize games of chance associated with casinos, including, but not limited to, slot machines, roulette wheels, and the like.

The state lottery authorized in this section shall be implemented and administered uniformly throughout the state in such manner as the legislature, by general law, deems appropriate.

; and

WHEREAS, in November 2002, the citizens of Tennessee approved, by referendum, this section of the Constitution authorizing the General Assembly to enact a state lottery and to permit annual lottery events held for the benefit of § 501(c)(3) charitable organizations; and

WHEREAS, in April 2004, the 103rd General Assembly enacted the "Tennessee Charitable Gaming Implementation Law" providing an administrative framework to carry out the mandate of the people; and

WHEREAS, while the act works well for large nonprofit organizations, it fails to provide a reasonable means of participation for small nonprofit organizations, such as senior citizen centers, community associations and church associations to raffle off homemade quilts, pies, country hams and other traditional miscellany; and

WHEREAS, the expense of the application process is far greater than any expected return for small organizations; and

WHEREAS, the burdensome and cumbersome nature of the application process is discouraging for small organizations that could benefit greatly from charitable gaming; and

WHEREAS, it is appropriate that this General Assembly address the needs of small nonprofit organizations by providing to them the same opportunity as large organizations are now afforded under the law; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Community Raffle Protection Act".

SECTION 2. Tennessee Code Annotated, Section 3-17-102, is amended by adding the following language as a new, appropriately designated subdivision:

(\_) "Community raffle" means an annual event conducted in accordance with the provisions of § 3-17-117;

SECTION 3. Tennessee Code Annotated, Title 3, Chapter 17, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section 3-17-117.

(a) Notwithstanding any provision of this chapter to the contrary, the provisions of this section shall apply exclusively to community raffles. Provisions of this chapter consistent with the provisions of this section shall be applicable to community raffles.

(b) Prior to February 14, 2005, for the annual event period beginning July 1, 2005, and ending June 30, 2006, and prior to January 1 in subsequent years for subsequent annual event periods, a § 501(c)(3) organization seeking authorization to conduct a community raffle shall submit a letter, by first class mail, to the secretary. The letter shall include:

(1) The name and mailing address of the § 501(c)(3) organization;

(2) A copy of the organization's determination letter from the Internal Revenue Service showing that the organization is exempt from federal income taxation under § 501(c)(3) of the Internal Revenue Code;

- (3) A statement that the organization has been in continuous and active existence for five (5) years immediately preceding the event date listed;
- (4) The name of the event;
- (5) The event date;
- (6) A description of the type of lottery game to be conducted;
- (7) A description of the proposed use of the funds; and
- (8) The name of a contact person for the event and telephone number for such person.

No other information shall be required for submission. A copy of such letter shall be sent to the district attorney for the judicial district in which the organization maintains a physical presence and where such event would be conducted.

(c)

(1) The secretary shall compile a list of all letters received requesting authorization to conduct a community raffle. All organizations timely submitting letters, and the appropriate documentation, shall be included on the omnibus list delivered to the general assembly in the same manner and at the same time as provided by § 3-17-103(b)(1); provided, that any such organization is denoted as a community raffle on the omnibus list by a unique symbol or notation. Upon approval by the general assembly, an authorization notice shall be sent to each authorized § 501(c)(3) organization by the secretary in a manner consistent with § 3-17-103(c).

(2) No fee shall be assessed by the secretary for submission of a letter requesting authorization to conduct a community raffle.

(3) For purposes of the submission deadline provided in subsection (b), the postmark date on the letter shall be considered the date of filing.

(d)

(1) Community raffles shall be conducted at a single location within a county where the organization maintains a physical presence. Multiple location and joint organization events are expressly prohibited.

(2) The provisions of § 3-17-103(a)(3)(B)(iii) shall not apply to community raffles.

(3) An organization conducting a community raffle shall be limited to selling five thousand dollars (\$5,000) worth of tickets, shares, chances or similar records.

(4) The total value of all prizes awarded per community raffle shall not exceed twenty-five thousand dollars (\$25,000).

(5) The provisions of §§ 3-17-110(a) and 3-17-114 shall not apply to community raffles.

(e)

(1) All gross proceeds, less expenses authorized pursuant to this chapter, shall be returned to the organization for the purposes expressed in the letter requesting authorization to conduct a community raffle; the provisions of § 3-17-103(a)(6) shall not otherwise apply to community raffles.

(2) No financial accounting is required upon completion of a community raffle; provided that the district attorney general for the judicial district in which the organization maintains a physical presence and where such event was conducted may request such accounting of any organization authorized to conduct a community raffle pursuant to the provisions of this section. Upon request, an organization shall provide an accounting in a form substantially

similar to § 3-17-106(b) within thirty (30) days. A copy of the accounting shall be sent to the requesting district attorney and the secretary.

(f)

(1) A violation of any provision of this section shall result in permanent disqualification from submitting community raffle letters or annual events applications.

(2) A violation of subsection (d)(3) of this section is a Class A misdemeanor punishable only by a fine; provided, that the maximum fine shall be the greater of:

(A) Five thousand dollars (\$5,000); or

(B) The amount of gross proceeds derived from the community raffle.

(g) A § 501(c)(3) organization shall not operate a community raffle annual event and an annual event during the same annual event period. A disqualification for either type of annual event constitutes a disqualification for both types of events for the entire period of disqualification.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.